

Duquesne Law Review

Volume 48
Number 2 *The First 'Colonial Frontier' Legal
Writing Conference*

Article 15

2010

It Was the Best of Practice, It Was the Worst of Practice: Moving Successfully from the Courtroom to the Classroom

Sherri Lee Keene

Follow this and additional works at: <https://dsc.duq.edu/dlr>



Part of the [Law Commons](#)

Recommended Citation

Sherri L. Keene, *It Was the Best of Practice, It Was the Worst of Practice: Moving Successfully from the Courtroom to the Classroom*, 48 Duq. L. Rev. 533 (2010).

Available at: <https://dsc.duq.edu/dlr/vol48/iss2/15>

This Article is brought to you for free and open access by Duquesne Scholarship Collection. It has been accepted for inclusion in Duquesne Law Review by an authorized editor of Duquesne Scholarship Collection.

It Was the Best of Practice, it was the Worst of Practice:* Moving Successfully from the Courtroom to the Classroom

Sherri Lee Keene†

I.	INTRODUCTION	533
II.	THE DIVERSE PERSPECTIVES OF LAW STUDENTS AND EXPERIENCED LEGAL PRACTITIONERS	535
III.	CHALLENGES THAT MAY ARISE FROM A PROFESSOR'S MISTAKEN ASSUMPTIONS ABOUT STUDENT KNOWLEDGE	540
	A. <i>Setting Realistic Expectations</i>	541
	B. <i>Being Explicit</i>	544
	C. <i>Providing Useful Feedback</i>	547
IV.	BRIDGING THE GAP	551
V.	EXPLOITING OPPORTUNITIES TO "TEACH IN THE GAP"	554
VI.	CONCLUSION	557

I. INTRODUCTION

Law students can benefit greatly from learning legal writing and oral advocacy from those who use these skills most often—experienced legal practitioners. Experienced practitioners bring to the classroom a wealth of knowledge and insight about the practice of law. From my conversations with other law professors who entered legal academia after years of practice, I have learned that many of these professors share the common goal of wanting to “give back” to their legal community or law school. Experienced practitioners seek to contribute to the strength and reputation of the legal profession and to help law schools produce better, more prepared new attorneys.¹

* The author was inspired by Charles Dickens, *A Tale of Two Cities*, “It was the best of times, it was the worst of times” CHARLES DICKENS, *A TALE OF TWO CITIES* 3 (Huber Gray Buehler ed., London, Macmillan 1922) (1859).

† Associate Director of Legal Writing and Law School Assistant Professor, University of Maryland School of Law, Baltimore, Maryland. I would like to thank University of Maryland School of Law Senior Research Fellow Susan McCarty and student Margaret Farquhar for their thorough research assistance, and Director of Legal Writing and Law

However, the transition from practicing to teaching can prove more challenging than many new professors anticipate. Ironically, one of the greatest and least anticipated challenges for experienced practitioners new to the classroom is learning how to connect with students and share their knowledge effectively. For many new professors, deep entrenchment in the legal profession makes it difficult to communicate well with law students. Many experienced attorneys are such experts in the legal field that they fail to recognize the extent of their knowledge, and their use of language and unwritten conventions common only to members of the legal profession.² This, among other factors, can form a barrier between professors and students.

This article will discuss some of the challenges that experienced attorneys encounter when they move from practice to academia and recommend ways for new professors to bring professional knowledge successfully into classroom teaching. While extensive experience may create the possibility of a barrier between professors and students, it can also create a limitless opportunity for experienced practitioners to teach what they know. Part II of this article will identify and describe the diverse perspectives of legal practitioners and students, as experts and novices respectively. Part III will discuss the many ways in which a professor's assumptions about what students know and how students will per-

School Associate Professor Susan Hankin for her helpful comments and suggestions. Further, my thanks go to my law school colleagues, Professors Richard Boldt, Deborah Eisenberg, Martha Ertman, David Gray, Renée Hutchins, Amanda Pustilnik, Wendy Seiden, and Maureen Sweeney for their insights at the beginning of this project. My appreciation also goes to planners and participants of "The First 'Colonial Frontier' Legal Writing Conference" at Duquesne University where I had an opportunity to discuss many of the ideas set forth in this paper.

1. Law school seems an appropriate venue for the experienced practitioner to pursue these worthwhile goals. See Bethany Rubin Henderson, *Asking the Lost Question: What Is the Purpose of Law School?*, 53 J. LEGAL EDUC. 48, 49-50 (discussing why law school is an appropriate forum "to inculcate professional norms" and "a vision of law as a noble public profession"); *id.* ("As law teachers encounter prospective lawyers before their impression of the legal profession are formed, they 'have a unique opportunity to influence the attitude of the nascent lawyer committed to their classrooms at the embryonic state of his legal career.'" (quoting John R. Peden, *Goals for Legal Education*, 24 J. LEGAL EDUC. 379, 382 (1972))).

2. Lisa Eichhorn, *The Legal Writing Relay: Preparing Supervising Attorneys to Pick Up the Pedagogical Baton*, 5 J. LEGAL WRITING INST. 143, 150 (1999) ("The difference between novices and experts leads to communication gaps that play themselves out between new associates and their supervising attorneys, who fail to recognize that new associates are not yet immersed in the legal culture."); Bernadette Feeley, *Training Field Supervisors to be Efficient and Effective Critics of Student Writing*, 15 CLINICAL L. REV. 211, 232 (2009) (discussing the wide gap of knowledge between law students and those with even limited practice experience).

form can lead to gaps in instruction and missed teaching opportunities, as well as poor working relationships. Part IV will suggest ways in which professors can work to bridge the gap between themselves and their students by adjusting their expectations and adapting their teaching methods to better accommodate student needs. Part V will recommend that professors embrace the opportunity to “teach in the gap” and consider the many ways they can use their practical experience to connect to students professionally. By connecting classroom instruction to real life examples, professors can raise student awareness of professional expectations and get students excited about what it really means to practice law. While this article focuses on the teaching of legal writing, the subject taught by the author, it is for anyone who enters legal teaching after a period of time practicing law.

II. THE DIVERSE PERSPECTIVES OF LAW STUDENTS AND EXPERIENCED LEGAL PRACTITIONERS

Nearly four years ago, when I walked into a law school classroom for the first time as a professor, I did not truly appreciate the fact that I would be meeting first-year students, in their first week of law school, and that I was a far cry from being in their shoes. While I remember my law school experience quite vividly—in many respects like it was yesterday—I soon realized that I am now operating in a different reality from my students. As a practitioner for over ten years, my thoughts, my speech, and my expectations are all colored by my professional experiences. Indeed, I admit it is sometimes unclear to me where my professional self ends, and my personal self begins. (I will assume, and take comfort in the fact, that this resonates with other experienced practitioners.) Not until I set foot in a classroom, however, did I fully appreciate what it means to be an attorney, and even more, part of a professional community.

I was drawn to legal teaching for the same reasons as many of my peers. I remembered (and still do) the many challenges of law school, and sought to assist students in these challenges by providing a positive learning experience that would help them prepare for law practice. Consequently, one of my main goals as a legal writing professor is to help students acquire a proficiency in the skills needed to practice law, so that they can quickly gain their footing and confidence in law school. I strive to create a classroom environment that is conducive to learning, where students are comfortable with me and their fellow students to such

an extent that they can step out on a limb, even if they risk making a mistake. However, as I spoke to my first class on our first day, I remember back-tracking at several points to define words or give context to what I had said. Over that first semester, there were days, I admit, when students left looking a bit overwhelmed or confused. (Luckily, in my first year of teaching, I had the good fortune of working with a class that was not afraid to ask questions and a teaching assistant who was not afraid to speak her mind!)

Regardless of the reasons that experienced practitioners are drawn to teach, many find that they face a common challenge—how to bring practice experience effectively into the classroom in a way that resonates with and reaches students. To understand how best to do this, new professors must first understand and appreciate who they are as experienced legal practitioners and who their students are. As they explore these varying perspectives, experienced practitioners can begin to reconsider exactly what they are teaching and how they can best transfer information to students. To become a better teacher, I have found it important to understand what I know and how I know it, as well as what I do and how I do it. Teaching experience has raised my consciousness about what it means to practice law; it has caused me to carefully evaluate my own perspective and consider my own work habits.

To be most successful in teaching, experienced practitioners must recognize that they come to the classroom as experts in the legal field. The professor's goal is, in essence, to help law students build their own expertise and competency in the legal profession. According to one theory, law students develop expertise by being socialized into a "community of knowledge" by its members.³ The author of this theory asserts that good thinking and good writing are "a set of skills that can be deliberately taught and deliberately learned in a context that we can describe as a 'community of knowledge' or a 'community of discourse.'"⁴ Accordingly, an attorney's development of good critical thinking and writing skills "is a consequence of expertise gathered by working with others more experienced" in the legal discourse community.⁵

Experienced legal writers carry not only a high level of technical skill, but a deep level of understanding as to what is considered to

3. Joseph M. Williams, *On the Maturing of Legal Writers: Two Models of Growth and Development*, 1 J. LEGAL WRITING INST. 1 (1991).

4. *Id.* at 9.

5. *Id.*

be a sound argument in the legal field. The experienced legal practitioner can consider evidence not only in the abstract, but also uses her knowledge to consider how courts have dealt with different types of evidence in different contexts.⁶ “For the skilled critical thinker, what is absent is at least as important as what is present.”⁷ As critical thinkers, experienced practitioners know not only how to determine whether an argument is good, but also what is absent in a bad argument. They can look behind the stated text, identify the assumptions that are being made, and evaluate not only the evidence that is identified, but also consider the evidence that is lacking. Because the experienced practitioner has seen many good arguments, she is not confined to the argument presented, but can imagine a more convincing alternative.⁸

Although experienced practitioners possess a great deal of expertise, when they enter the classroom for the first time, they are often surprised to find that they are not truly aware of what they know and what their students do not.⁹ Experts in the legal profession are deeply rooted in a legal community in which they share a series of normative ideas and accepted conventions. Many experienced practitioners do not take stock of this socialization as they go about doing their jobs and living their daily lives. In fact, it rarely occurs to them that these norms may not be shared outside the field of law.

Experienced practitioners are sometimes so comfortable with their area of expertise that they “unconsciously omit information or procedural steps needed for understanding” by less-experienced, or completely inexperienced, students.¹⁰ While an experienced practitioner will likely recognize that she has developed a number of skills as an attorney—she can solve problems, write briefs, and engage in oral discussions of complex issues—she may not recognize the numerous considerations she makes in

6. *Id.* at 10.

7. *Id.*

8. *Id.* at 9-10.

9. Sheila Rodriguez, *Using Feedback Theory to Help Novice Legal Writers Develop Expertise*, 86 U. DET. MERCY L. REV. 207, 213 (2009) (“With extended practice, performance in any discipline becomes fast, effortless, automatic and seemingly inaccessible to introspection.”).

10. Ted Becker & Rachel Croskery-Roberts, *Avoiding Common Problems in Using Teaching Assistants: Hard Lessons Learned From Peer Teaching Theory and Experience*, 13 J. LEGAL WRITING INST. 269, 277 n.32 (2007) (discussing a study of teaching skills for medical residents which suggested that “unconsciously competent” medical faculty might have relatively more difficulty teaching a procedure to residents, than other residents who more recently learned the procedure).

practice. When she is asked to explain how to complete a given task, the experienced practitioner may discover that she does not know how to describe the process she uses or even what it is: how she writes an argument that is concise or persuasive, or moves from reading the cases to drafting her analysis, for example. "For the expert writer, there is an almost unconscious application of strategies, an 'automaticity' to the writing."¹¹

While experienced practitioners are experts who tend not to appreciate fully the extent of their knowledge, law students are novices unfamiliar with the legal profession, and correspondingly, often unable to identify what they do not know. In contrast to the practitioner-expert, novices are often largely unaware of the accepted norms and conventions of legal practice.¹² Many new law students may not have a true sense of what it means to be an attorney when they enter law school. Many have not worked in a legal setting and do not have an attorney in the family. Many have not read, or even seen, an office memorandum or brief before; even if they have seen one, they may have only a vague notion of the purpose it serves or the process that went into creating it.¹³

Many law students have little real knowledge of the practice of law when they begin law school; they are quickly confronted, however, with the challenge of joining "one of the most complex of the professional discourses."¹⁴ To further compound matters, during periods of transition, the skills that students have already acquired may appear to be compromised. As a result, many law students may appear to be performing incompetently on early as-

11. Rodriguez, *supra* note 9, at 213 (citing Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35, 99 (1994)).

12. Williams, *supra* note 3, at 31 ("[A] novice lacks certain characteristics and competencies: the novice does not yet have the knowledge of an expert in a community or yet have the habits of thinking or the tone of voice.").

13. The experience of the author is that many students come to law school with a limited understanding of legal practice. During the first day of class, I often ask my students why they chose to go to law school and what their goals are. The majority of students indicate that they went to law school because they possess a certain skill, usually writing or speaking, that they enjoy and at which they feel (or were told) they excel. Many indicate that they have experience in debate or have been very effective at arguing generally. Some have indicated that they are there because they chose not to do something else (like be a doctor) or because they were impressed by an image of legal practice they saw in some form of mass media. Regardless of the range of responses, I consistently find that few students indicate that they chose to come to law school because they worked in a legal setting or had any type of experience in the legal field.

14. Rodriguez, *supra* note 9, at 213; see also Susan E. Provenzano & Lesley S. Kagen, *Teaching in Reverse: A Positive Approach to Analytical Errors in 1L Writing*, 39 LOY. U. CHI. L.J. 123, 159-63 (2007) (describing the challenges that first-year law students encounter as they are socialized into the legal discourse community).

signments, when the real issue is their novice status. "Whenever we face the task of joining a new community, we have to manage a number of demanding tasks."¹⁵ Confronted with these demanding tasks, "novices struggle to acquire new skills, many—perhaps most, to some degree—temporarily lose skills they seem to have once mastered."¹⁶ While experienced law practitioners often judge student performance from a perspective that reflects their professional standards, students may be performing in a manner that reflects their lack of comfort with engaging in a new area of discourse. For example, as novices in this discourse, students may include unnecessary information in their writing because they do not have sufficient knowledge to know what to include and what to leave out of their writing; they may also imitate what they believe to be a professional voice and overuse legal jargon.¹⁷ Under these circumstances, incompetency, or lack of effort, should not be presumed by looking at the surface of a student's performance.¹⁸

As a result, when experienced practitioners enter the classroom for the first time—with good intentions and a desire to share their knowledge with students—they often present as "unconsciously competent," not completely aware of what they know, and inadvertently omit explanatory steps in their teaching.¹⁹ Professors coming to teach from practice may in fact underestimate what they are asking their students to do and not fully appreciate the knowledge that students need to acquire to complete a given task. At the same time, we have students who are transitioning into a new community of discourse in which they currently have no expertise—a situation that often produces "anxiety" and "insecurity."²⁰ While professors may fail to provide students with all of the information that they need (an ominous task to be sure), students may not know which questions to ask or may hesitate to ask ques-

15. Williams, *supra* note 3, at 14 (discussing the many "tasks" involved in joining a new discourse community, including acquiring a new body of knowledge and new ways of thinking, as well as capturing "the voice of the community").

16. *Id.* at 15 ("Given these new cognitive demands, it is predictable that in many cases, skills of grammar and sentence structure that were seemingly mastered earlier will seem to deteriorate. The cognitive burden is too great for many students to maintain once-mastered skills at earlier levels. There is evidence from a variety of fields on the degradation of once mastered skills under the pressures of cognitive overload, and the evidence for the degradation of writing performance has been often demonstrated . . .").

17. *Id.* at 20-21.

18. *Id.* at 15.

19. Becker & Croskery-Roberts, *supra* note 10, at 277 n.32.

20. Williams, *supra* note 3, at 14-15.

tions for fear of revealing their lack of understanding.²¹ The situation can lead to missed teaching opportunities and student lack of understanding. Even more, when poor student performance reflecting a lack of comfort with a new discourse is mistaken by the professor as a demonstration of a lack of ability or effort, the situation may lead to increased student anxiety and can compromise the relationship between the professor and her students.

Given the great value that can result from having law students learn from experienced practitioners, we must address the challenges that may impede the experienced practitioner's goal of sharing her acquired knowledge with law students. By identifying these challenges, we can begin to consider solutions that will help maximize the many benefits of having experienced practitioners teach.

III. CHALLENGES THAT MAY ARISE FROM A PROFESSOR'S MISTAKEN ASSUMPTIONS ABOUT STUDENT KNOWLEDGE

While a practitioner's experiences provide her with a great deal of knowledge to draw from when she enters the classroom, these same experiences can also pose a number of challenges. As discussed in Part II, expertise can lead an experienced practitioner to inadvertently omit information when she teaches that may be helpful (or even crucial) to student learning. The experienced practitioner's lack of awareness of what she knows as a professional, but which novices do not know, may also lead her to overestimate the students' levels of knowledge upon entering the classroom and to misinterpret student performances on early assignments.

Moreover, despite substantial legal expertise, experienced practitioners may find that their professional experiences may not adequately prepare them for every aspect of their roles as professors. While the focus in practice is often to satisfy the discrete goals of a client, the focus in teaching is to help students gain an expertise and competency in the legal profession. Even when experienced practitioners are aware of these distinct roles, it is easy to fall back on old habits learned in practice. As experienced practitioners raise their awareness of what they know as experts, they

21. Rodriguez, *supra* note 9, at 214 ("Research shows that students who cling to their former writing strategies and 'who resent the uncertainty and humility of being a novice have a more difficult time adjusting to the demands of [a new type of] writing.'") (quoting Nancy Sommers & Laura Saltz, *The Novice as Expert: Writing the Freshman Year*, 56 C. COMPOSITION & COMM. 124, 134 (2004)).

must also consider carefully which of their prior experiences they want to bring into the classroom and which are best abandoned. While there are many challenges that may arise as a result of the vast differences between novice and expert perspectives, this section will focus on three challenges that can greatly impact the experienced practitioner's ability to transmit information effectively to students and contribute to poor working relationships: setting realistic expectations, providing explicit instruction, and providing useful feedback.

A. *Setting Realistic Expectations*

A professor's setting of clear, appropriate expectations is integral to the creation of a conducive learning environment for students, and ultimately promotes the successful sharing of knowledge between the professor and students. The professor's expectations impact the course in many ways; they inform its pace and its content, as well as the complexity of assignments—all factors that are important to the students' success and enjoyment.²² If a professor does not define her expectations or set attainable goals, students may become frustrated and lose motivation.²³

Defining expectations is particularly important in a legal writing course, where the scope of the course is not obvious. Here, the professor must recognize and explain to students exactly what the course will cover. (As many have observed, the term "legal writing" is in many senses a misnomer as the course involves this and more.) For many students, it will take significant time to gain a comfortable level of proficiency in legal writing and analysis. Indeed, legal writing is a skill that many would argue is never completely perfected, but only improved over time. Therefore, for legal writing in particular, the professor must be clear as to what she is asking her students to do and what she expects them to accomplish during the course. It is important that the professor sets clear, attainable goals for students and puts these goals in the proper context.²⁴ Students should be assured that they can make

22. Nancy Levit & Douglas O. Linder, *Happy Law Students, Happy Lawyers*, 58 SYRACUSE L. REV. 351, 367-68 (2008) (discussing the importance of finding the right level of challenge so that people are not too anxious, bored, or frustrated).

23. *Id.* at 367 ("Clear goals and prompt feedback are important. Things that help encourage task-focus and a sense of being 'in the zone' include working arrangements that permit control, concentration without distractions, and motivations that come from within rather than from external rewards.").

24. B. Glesner Fines, *The Impact of Expectations on Teaching and Learning*, 38 GONZ. L. REV. 89, 122 (2002-03) ("Teachers must also state their expectations clearly, consistently

mistakes, though they should also be informed of the professor's high standards.²⁵

An experienced practitioner's expert status can make it difficult for her to set realistic expectations in the classroom. Evaluating what is required of students in order for them to complete a given assignment and taking stock of what students know and do not know, are both necessary to identify appropriate teaching goals.²⁶ Experienced practitioners are often so accustomed to doing the tasks they ask their students to do that they fail "to 'understand the nature of the cognitive problems students [are] faced with in attempting to master the subject matter.'"²⁷ As a result, new professors often find that they overestimate what their students will know when they first enter the classroom. Moreover, because experienced practitioners may not be aware of the extent to which their knowledge is attributable to legal training and not to general knowledge shared with non-lawyers, they often wrongly assume that their expectations are understood and do not need to be discussed with students.

Professional experiences at work may also raise a new professor's expectations in the classroom. Many legal practitioners have the opportunity to work with more junior attorneys in their offices and to supervise their writing formally or informally. Many practitioners also have the opportunity to work with summer associates or law student interns. After practicing for a number of years, experienced practitioners may consider the work of the more junior attorneys and upper-level law students they work with in their offices as the baseline of expected attorney perform-

and with intellectual integrity. . . . 'If learning is suffused with ambiguity, if students are unsure of what is expected of them and by what criteria their efforts are being judged, they will probably mistrust teachers and resist their instructions and entreaties.'" (quoting STEPHEN D. BROOKFIELD, *THE SKILLFUL TEACHER: ON TECHNIQUE, TRUST AND RESPONSIVENESS IN THE CLASSROOM* 151 (1990)).

25. Rodriguez, *supra* note 9, at 214 ("Becoming a novice legal writer involves being open to instruction and feedback, and being willing to experiment and make mistakes."); Fines, *supra* note 24, at 121 ("Teachers most effectively develop thinking skills in their students by creating a 'cooperative classroom condition where experimental ideas can be risked, alternative hypothesis explored, and answers changed with additional data; where value is place on creative problem-solving rather than conformity to 'right' answers.") (quoting RAYMOND S. NICKERSON ET AL., *THE TEACHING OF THINKING* 337 (1985)).

26. Fines, *supra* note 24, at 122 ("The teacher must set specific, concrete, and realistic goals for student achievement. This task requires having an intellectual definition of courses with a clear vision for student learning. Only then, can teachers match course objectives, assignments, and teaching methods to the goals established for students.").

27. Becker & Croskery-Roberts, *supra* note 10, at 276 n.30 (quoting Diana H.J.M. Dolmans et al., *Trends in research on the tutor in problem-base learning: conclusions and implications for educational practice and research*, 24 *MED. TEACHER* 173, 176 (2002)).

ance. While these individuals are novices in their own right, they are not nearly as new to the legal profession as entering law students. Junior associates have a minimum of three years of law school education and often a number of internships, clinical experiences, and perhaps even clerkships, to draw from. New law students are not nearly as experienced. Even the work of a summer associate (who is often a student who has completed two years of law school) will not provide a good point of comparison to an average first-year student, particularly a student in their first semester of law school, considering the steep learning curve of law school. As such, before she begins teaching, an experienced practitioner may benefit from reconsidering her expectations.

When the experienced practitioner enters the classroom for the first time, she is bound to be surprised by some of the things her students do not know. For example, when I began to teach, one of the first things that struck me was how “unprofessional” some of my student’s draft submissions looked. The first time I requested that students submit a draft, I even received a few handwritten papers. A number of the students’ papers contained numerous typographical errors and the formatting was awkward. My first thought was that some of my students either were not trying or were simply not prepared for the rigorous demands of law school. Over time, however, I learned that many students simply did not share my meaning of the term “draft,” and did not understand what I expected.

A professor will usually see better results if she explains up front what she expects from her students. The professor should not expect students to turn in drafts that meet professional standards unless students are made aware of these standards. Regarding the above example, to make expectations clear to students, a professor can lay out in the course policies exactly what she does and does not mean by the term “draft.” The professor can specify that all drafts should be typed, revised, proofread, edited, and reflect the students’ best efforts. The professor can start the semester telling students about the importance of presenting a polished work product, particularly in the context of the legal profession, or bring in an example of a well-prepared document. The professor can emphasize that lawyers build, or diminish, their credibility through their writing. She might even tell a story of how “a friend” was chastised by a more senior associate for a typographical error in a draft, or how this “friend” filed a legal document that took many hours of work, only to find that it contained an embarrassing typographical error! Why put in all of the effort

and not put your best foot forward? While stating her high standards and indicating that the ultimate goal is perfection, the professor should make clear her expectation that each student give a solid and consistent effort. Given this information, it is my experience that most students will work diligently to put in the extra effort needed to turn in a more professional-looking draft.

Whether a professor's expectations relate to her presentation, or to something more substantial like the content of the brief, the same rules hold true. In holding students to professional standards that they may know little about without explaining what those standards are or how they are met, the professor may be doing more than omitting helpful information, she may in fact be penalizing students for their lack of experience. By defining expectations and sharing them with students, she gives every student a chance to meet them.²⁸ By raising awareness of professional norms, moreover, the experienced practitioner brings students a little further into the legal community of discourse and helps further her students' competence and expertise in the profession.

B. *Being Explicit*

Many new law professors also struggle with finding the right balance between providing students with helpful guidance and not giving away too much information. Not only do professors need to be clear as to what they expect from students, they need to carefully explain the process that students need to engage in to achieve these expectations.²⁹ Prior experience, taken for granted, gives rise quite naturally to the omission of information. If a pro-

28. Fines, *supra* note 24, at 123 ("In communicating goals to students, a teacher should repeat these expectations to them in a variety of ways to reach the different learners. The teacher can let students know that the goals are challenging, while simultaneously communicating the expectation that success is within the reach of all students who commit the effort to achievement. At the same time, the teacher should not be unwilling to call students on their half-hearted efforts.").

29. Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 J. LEGAL WRITING INST. 23, 40-52 (2004) (discussing aspects of "cognitive apprenticeship theory" and of "composition and writing process theory" and how they are used in the legal writing classroom, and ultimately making the case for all law professors to be more explicit in law school teaching); *see also* Christine M. Venter, *Analyze This: Using Taxonomies to "Scaffold" Students' Legal Thinking and Writing Skills*, 57 MERCER L. REV. 621 (2006) (arguing that legal writing faculty need to develop precise and overt strategies, based on taxonomies, to teach students analytical skills and enable them to master the skills of thinking and writing like lawyers); *id.* at 622 ("If teachers are not clear and explicit in how they go about teaching students analytical skills, they cannot necessarily expect students to become experts in analysis.").

fessor underestimates how much students have to learn, she may hold back a significant amount of information that may benefit students. As a result, it may appear to students that a professor is “hiding the ball.” I have often heard students complain that they “do not know what the professor wants.” Not having enough information to complete an assignment can be frustrating to students.³⁰ Moreover, it can lead to missed teaching opportunities for professors and missed learning opportunities for students.

Explicit instruction is important to help students build expertise and competency. “We have to show [our students] concretely—not explain in general—how we want them to behave so that they will behave like us.”³¹ To determine what information to provide and what to hold back, a professor needs to have a clear understanding of her pedagogical goals; in forming these goals, she should take into account the students’ knowledge and what she wants to teach. To achieve this task, the expert may need to take a step back in order to identify the information needed or steps involved in the completion of a given task. For example, the experienced practitioner might need to consider the words that she is using in class. She should carefully consider whether it is best to avoid legal jargon or to explain the vocabulary that she is using. She may also need to give meaning to the concepts she is promoting, using creative means to paint a more vivid picture of the reader audience and a better understanding of the exact purpose of a particular writing.³²

In addition to explaining terms and concepts, the professor should also make suggestions to students about how to approach their assignments. Students benefit when the experienced practitioner speaks from her own experience and lays out the steps she takes to complete a given task.³³ Moreover, students are empowered with a plan for completing a given task where the professor

30. Fines, *supra* note 24, at 122 (“[T]he perception of ambiguity—of being unsure what teachers want or expect and of suspecting that they hold secret agendas—is . . . one of the most demoralizing factors for students.” (quoting BOOKFIELD, *supra* note 24, at 151)).

31. Williams, *supra* note 3, at 16.

32. Beazley, *supra* note 29, at 53-54 (discussing different strategies used by legal writing faculty to make abstract readers and their needs more concrete to the novice legal writer).

33. *Id.* at 46. Beazley, in her article, discusses “heuristic strategies” and “modeling.” *Id.* “Heuristic Strategies” is described as a principle of providing course content that gives students ‘generally effective’ techniques for accomplishing certain tasks.” *Id.* (citing Allen Collins et al., *Cognitive Apprenticeship: Making Thinking Visible*, 15 AM. EDUCATOR 3, 42 (1991)). “Modeling” asks the expert to perform the task and to ‘externaliz[e]. . . usually internal processes and activities . . . by which experts apply their basic conceptual and procedural knowledge.” *Id.* (quoting Collins et al., *supra*, at 41)).

models a process for completing the task and incorporates it into her teaching. Where students are writing an appellate brief, for example, the experienced practitioner may explain her usual method for drafting briefs in practice. Perhaps, in practice, the professor begins her drafting process by reviewing the relevant procedural rules and identifying the requirements for the brief. She might then prepare a template of the entire appellate brief, making sure each section is included and labeled appropriately. As part of an assignment, the professor may also take students through the revising process to help teach them what is required to produce a high-quality, polished work-product.³⁴ Students may submit multiple drafts on which they receive feedback, and may have several opportunities to talk about their writing in group and one-on-one settings. As students prepare multiple drafts, the professor and students can discuss how this process mimics what lawyers do in practice.³⁵

By modeling the steps needed to complete a given task, a professor improves the students' learning experience and increases their chances of successfully completing the task. Moreover, in explaining their process to students, experienced practitioners "break down large goals into smaller sub-goals."³⁶ Taking on the prospect of a large goal all at once can cause anxiety and feelings of being overwhelmed.³⁷ By sharing strategies with students, the experienced practitioner is doing more than helping them to complete an assignment, she is equipping the students with a process they can later employ when they encounter a similar task.³⁸ By

34. Rodriguez, *supra* note 9, at 220 (describing a model for providing oral feedback, the ordered and repetitive nature of which "encourages novices to internalize the habits of mind associated with self-assessment").

35. *Id.* ("One of the easiest ways to distinguish novices from experts is the effort they expend on self-evaluation. Novice legal writers are not likely to realize the hours that experienced lawyers devote to evaluating and re-evaluating their writing.").

36. Allison B. Martin & Kevin L. Rand, *The Future's So Bright, I Gotta Wear Shades: Law School Through the Lens of Hope*, 48 DUQ. L. REV. 203, 224 (2010) (quoting C. R. Snyder et al., *Hope Theory, Measurements, and Applications to School Psychology*, 18 SCH. PSYCHOL. Q. 122, 129 (2003)). Martin and Rand conducted a study the results of which suggest that hope predicts academic success and life satisfaction in the first semester of law school. *Id.* at 209-14. They also identified goals, pathways thinking, and agentic thinking as important components of hope. *Id.* at 218.

37. *Id.* at 224. ("Perhaps the most common strategy for enhancing pathways thinking is to help students to break down large goals into smaller sub-goals." (quoting C. R. Snyder et al., *supra* note 36, at 129)).

38. *Id.* at 225 ("By modeling the learning process, legal educators enhance students' pathways thinking. And the next time a student is confronted with the task of writing an appellate brief, for example, that student can set subgoals and feel more confident about writing the brief, which helps with agentic thinking as well.").

guiding students through professional assignments, therefore, the experienced practitioner is in many ways preparing students to meet some of the demands of practice.

C. *Providing Useful Feedback*

Professional experiences also influence the manner in which experienced practitioners provide feedback to students. Many practitioners spend substantial amounts of time reviewing the written work of less experienced lawyers in their offices, or having their own work reviewed. While experienced practitioners are often accustomed to giving and receiving pointed feedback in one form or another, they must recognize the resistance that some students may have to it. Particularly where a professor comments on student writing, and often provides the first feedback that students receive in law school, comments can be met with a number of reactions from students. If the professor's ultimate goal is to transfer her expert knowledge to her students, then she must pay particular attention to how she comments on a student's work. Given the emotional responses that many students have to criticism, "[a]n effective feedback method must proactively account for the psychological factors that can thwart students' development of expertise."³⁹ Yet, many practitioners come to the classroom after working in environments that provide very little feedback with little sugar coating.⁴⁰ Practitioners may find that some of the feedback techniques they experience, or use, at work, are ineffective in teaching students.⁴¹

39. Rodriguez, *supra* note 9, at 210. Professor Rodriguez also states that what many students "have in common are emotions that interfere with how they process and receive feedback." *Id.*

40. Bernadette T. Feeley, *Training Field Supervisors to Be Efficient and Effective Critics of Student Writing*, 15 CLINICAL L. REV. 211, 215 (2009) ("Much has been written in the legal writing and clinical fields of legal education about critiquing and supervision, but the practicing bar has little exposure to the methodologies used by legal writing and clinical faculty. Although practitioners recognize that a law student or new lawyer continues professional development well beyond law school, some have indicated that they feel this professional development emerges 'more often as a byproduct of work' rather than [sic] 'as an objective which was designed and discussed as a regular part of the supervisory experience.'").

41. Indeed, the effectiveness of writing feedback commonly provided to associates in practice is questionable. See Marcia Pennington Shannon, *Helping Associates Improve Their Writing Skills*, L. PRAC., Jan. 2008, at 60 (discussing strategies for law firms on training junior lawyers to be better writers); Terri LeClereq, *Help or Hinder: Partners Affect Associates' Writing*, 50 TEX. B. J. 984 (1987) (discussing the possible negative traits of some law firm partners that undermine the realistic and professional goals they explicitly promote and offering solutions to elicit more positive results).

When used properly, feedback can be an important and effective tool to enhance student learning.⁴² In legal writing, it provides an opportunity for the professor to work with a student one-on-one and address specific issues that a student is having with their writing or analysis. It also affords an opportunity for students to talk about their writing and to explain their thinking and writing processes. In order to maximize the benefits of commenting and conferencing, however, the professor must provide comments in a manner that makes the students as receptive as they can be to receiving them.⁴³ Building a good rapport with students is important to this process.⁴⁴ In order to successfully provide feedback, a professor must start by addressing the issues discussed above—setting clear, realistic expectations for student work and being explicit about how the students can meet those expectations. Moreover, the experienced practitioner may need to break from old habits and approach the reviewing process in a very different way than she did in practice. The goal for providing feedback in legal teaching, to give comments that will help students build competence in their writing, is markedly different than the goal in practice, to serve the needs of the client.

A common experience for a young associate in private law firm practice is to turn in a draft, and then have an edited version of this initial work later returned. While an associate may have an opportunity to see what is considered to be an effective final product, little may be taught about the process that goes into creating it. Moreover, the associate may not learn why various changes were made or why the final draft is considered to be better. The associate also may not have an opportunity to hear about the various judgments and considerations behind the changes, or have the

42. Levit & Linder, *supra* note 22, at 360 (“A wealth of educational research demonstrates that prompt feedback about the success of an activity is tied to critical thinking, concept mastery, and educational satisfaction.”); Feeley, *supra* note 40, 215 (“Providing effective critique on student writing . . . is important to help the novice develop as an attorney. Legal writing experts believe that individual feedback and critique is of critical importance to improving legal writing skills”).

43. Many articles have been written on the subject of providing effective feedback on student written work. See, e.g., Daniel L. Barnett, *Triage in the Trenches of the Legal Writing Course: The Theory and Methodology of Analytical Critique*, 38 U. TOL. L. REV. 651 (2006-07) (exploring the skills a professors needs to comment effectively on student legal writing assignments); Feeley, *supra* note 40, at 217-37 (discussing ten concrete techniques for legal writing critique from legal writing pedagogy for field supervisors, professionals who have limited time to supervise student work).

44. Feeley, *supra* note 40, at 218-21 (suggesting methods “to diffuse students’ natural anxiety and help students digest later critical comments without taking them personally or defensively.”).

opportunity to familiarize herself with the professional norms and conventions that she may have violated. This type of feedback is often prompted by the need to turn around a document quickly and cost-efficiently. Given the demands of litigation and client representation, assignments are often time-sensitive and may not afford the opportunity for extensive conversations about attorney drafts.⁴⁵ However, this manner of feedback lacks the type of dialogue that helps the associate develop her writing quickly and learn to develop a better initial draft, as well as a finished product.⁴⁶

The way practitioners provide and receive feedback in practice, both good and bad, often finds its way into the classroom. While an experienced practitioner may want to introduce students to the real world of legal practice, her first priority is to help students to become better legal writers, able to use good judgment and to meaningfully critique their own work. When a professor reviews student drafts in a legal writing course, she has the luxury of not having a client to consider or a demanding litigation schedule. While it is easy to slip into usual habits for critiquing, experienced professors must be conscious of what they are doing and the distinct role they play as professors.

Moreover, the professor's overall goals should inform the manner in which she provides feedback to students.⁴⁷ In legal writing, students are being asked to learn a significant amount of new information and apply it to their writing in a defined period of time. Given that many writers take their writing personally, receiving feedback on a legal document that a student may not be comfortable writing, or even take great pride in, can be an unsettling ex-

45. Eichhorn, *supra* note 2, at 157 (discussing how supervising attorneys often overlook the importance of providing feedback and focus more time on other tasks more directly related to their clients' case); Terrill Pollman, *Building a Tower of Babel or Building a Discipline? Talking About Legal Writing*, 85 MARQ. L. REV. 887 (2002) (discussing how in the 1980s, the nature of law practice changed and how law firms which had formerly allotted significant time to teaching and mentoring new associates became reluctant to spend time training lawyers when they could use that time to bill hours.).

46. Rodriguez, *supra* note 9, at 220-21 ("Developing a capacity for self-assessment is fundamental for maturing and progressing as a learner. By internalizing self assessment, students ultimately become more self-sufficient writers.").

47. Rideout & Ramsfield, *supra* note 11, at 73 ("When professors understand that they are part of the socialization of law students into legal discourse, however, they will also begin to see other goals as well: to coach as well as correct students in their writing; to diagnose not only the writing product of students but also their process and development as legal writers; and most importantly, to reinforce those writing practices of law students—whether in the product or the process—that mark students' emerging mastery of legal discourse, their developing understanding of its conventions and its practices, their successful efforts to 'write as lawyers.'").

perience for many students. While feedback is necessary to building competence and expertise, it can also be overwhelming. Providing positive, as well as negative, feedback helps to motivate students to continue to work hard on a complicated task and makes students more receptive to the feedback they are being provided.⁴⁸ It is also important that the professor create an atmosphere that allows room for students to make errors, and that the professor depersonalize her comments.⁴⁹ In presenting our comments, we can take on a new role in relation to the student—that of the reader.⁵⁰ By responding as the reader, we comment on the effectiveness of the document from the perspective of the audience and for its intended purpose, not on the performance of the student.

Engaging novice students in a meaningful dialogue about their writing is critical to building their competence and expertise in the profession.⁵¹ In teaching legal writing, the professor can use individual feedback to direct the student writer as to the norms and conventions of the legal profession. Through written comments and oral conferences, the professor can use the students' own work to explain what is common knowledge and what is not in the legal community, and amongst various legal readers.⁵² The

48. Rodriguez, *supra* note 9, at 217 ("Psychologists define 'competence' not as an attained skill or capability, but rather feeling confident in one's effectiveness. Positive feedback enhances perceived competence, which tends to increase intrinsic motivation. Including positive component's such as praise and encouragement, in feedback helps to ameliorate the potentially ego-threatening effects of criticism and increases the likelihood that a student will accept the feedback." (citations omitted)).

49. Martin & Rand, *supra* note 36, at 227 ("Learning means taking risks, and students will not do this unless they feel assured that the teacher will respect them and refrain from demeaning them—even if their performance falls short of expectations." (quoting Snyder et al., *supra* note 27, at 131)).

50. Janey Kent Gionfriddo, *The "Reasonable Zone of Right Answers": Analytical Feedback on Student Writing*, 40 GONZ. L. REV. 427, 436 (2004-05). Professor Gionfriddo discussed the dual role of the legal writing professor:

When commenting on students' work, teachers need to provide feedback as expert legal thinkers and writers. As educators, they must assist the student to understand the process of crafting legal analysis and using it to solve problems. At the same time, teachers must play the role of attorneys and judges who are interested in the results of that process as they appear 'within the four corners' of the document.

Id.

51. See, e.g., Rodriguez, *supra* note 9, at 218 ("Law students are more likely to develop expertise when they sense personal control over the feedback they receive on their writing.").

52. Beazley, *supra* note at 29, at ("As in traditional apprenticeships, 'Coaching' in the cognitive apprenticeship requires the expert to observe students while they carry out a task and to offer 'hints, scaffolding, feedback, modeling, reminders, and new tasks aimed at bringing their performance closer to expert performance.'" (quoting Collins et al, *supra* note 33, at 43)).

novice student will likely include unnecessary information in their writing because they mistakenly assume that they need to explain something that is common knowledge to their audience. Likewise, the student may exclude other information that is needed because they assume that the reader will have a level of familiarity with the omitted information. In commenting on these additions and omissions and discussing them with the student, the professor helps the student to learn a bit more about her legal audience and purpose, including what information is expected to be provided in a given document.

IV. BRIDGING THE GAP

Despite the many challenges that experienced practitioners face when they transition from practicing to teaching, the value of their experience in the classroom is clear: Law students “acquire expertise not in a vacuum, but as novices who must be socialized into a community of knowledge, into a community of discourse by those who constitute the community.”⁵³ If experienced practitioners accept the theory that their purpose is to increase students’ levels of expertise and “bring our students into our community,”⁵⁴ this principle should guide the way that they teach.

The most important step toward bridging the gap is raising the experienced practitioner’s awareness of the difference between her perspective as an expert in the legal profession and that of her students as novices.⁵⁵ Becoming more conscious of what she knows, what students need to learn, and the processes that go into her activities as an attorney, will assist an experienced practitioner to better define expectations, be more explicit in teaching, and provide useful feedback. For the professor of legal writing, reading about teaching can raise awareness of the steps that go into the legal writing process and introduce her to teaching methods that have been effective in teaching the same subject to other stu-

53. Williams, *supra* note 5, at 11; *see id.* at 16 (“If we understand the development of ‘higher order thinking’ not just as a matter of cognitive growth but as socialization into a community of discourse, then we must change substantially how we view the process of education in general, and the teaching of writing in particular. . . . [Moreover], the model would have to include those of us who constitute its community, its already socialized members.”).

54. *Id.*

55. Eichhorn, *supra* note 2, at 153 (“[T]he notions of discourse communities, expert-novice gaps, and writer-based prose can help coaches diagnose the causes of problematic writing.”).

dents.⁵⁶ Experienced practitioners must also take stock of their own roles as novices to teaching.⁵⁷ While the assumption has often been made that knowing the law is no different than teaching the law, such an assumption is not well supported.⁵⁸ Like their students, new professors are asked “to manage a number of demanding tasks.”⁵⁹ Moreover, as they “struggle to acquire new skills,” it is arguable that new professors may “temporarily lose skills they seem to have once mastered.”⁶⁰

Like most novices, experienced practitioners entering academia can benefit from putting their new challenge into the context of something they have already learned.⁶¹ While the new role as professor may prove challenging as experienced practitioners seek to effectively transfer their knowledge to their students, they can draw from a world of experience as communicators. In a true sense, experienced practitioners can “practice what they teach.” In the role as advocate, it is engrained in the practitioner to always consider her audience and purpose.⁶² The same principles

56. See Feeley, *supra* note 40, 213 (discussing the “rich body of material” developed by legal writing professors and the engagement of these professors in “a national discourse on legal writing pedagogy”).

57. Williams, *supra* note 3, at 31 (“We are all novices in some communities and experts in others. What we define as novice behavior is only that: local behavior.”).

58. *Id.* at 13 (“[W]hen experts in one field were confronted with a problem remote from their own community, they seemed not to deploy whatever skills of analysis that we might think were generic to all experts. Expertise seems not to travel well”); see also Liz Ryan Cole, *Training the Mentor: Improving the Ability of Legal Experts to Teach Students and New Lawyers*, 19 N.M. L. REV. 163, 165 (1989) (“Simply because people are knowledgeable, it does not automatically follow that they will be able to teach.”); Lisa Eichhorn, *supra* note 2, at 149 (1999) (“Being an excellent legal writer is quite different from being an excellent legal writing coach.”).

59. Williams, *supra* note 3, at 14.

60. *Id.* at 15.

61. Williams, *supra* note 3, at 19 (“The more old knowledge we have about a subject, the more new knowledge we can retain about it: (1) because we integrate new knowledge with old knowledge, and (2) because if we are rich in knowledge about a subject, we probably have organized that knowledge in a way that allows us to incorporate new knowledge into it quickly and efficiently.” (citing Robert Glaser, *Educational Thinking: The Role of Knowledge*, 39 AM. PSYCOL. 93 (1984)); Venter, *supra* note 29, at 633-34 (discussing the need for “goal-directed approaches and methods of thought that help students build bridges between what they already know or have experienced and what they are trying to learn” (internal quotation omitted))).

62. See LOUIS J. SIRICO & NANCY L. SCHULTZ, *PERSUASIVE WRITING FOR LAWYERS AND THE LEGAL PROFESSION* (2001) (“Persuasion is nothing more than the successful communication of an idea from one person to another, with the result that the reader or listener ends up agreeing with the speaker or writer.”); Feeley, *supra* note 40, at 224 (“Many legal writing professors emphasize to students the importance of putting themselves in the place of the reader.”); Terrill Pollman, *supra* note 45, at 908 (discussing the “audience-based approach” to teaching legal writing); Patricia Grande Montana, *Better Revision, Encouraging Student Writers to See Through the Eyes of the Reader*, 14 J. LEGAL WRITING INST. 291 (2008).

hold true in the classroom.⁶³ Professors must learn more about their students and seek to define appropriately their goals as teachers, which are often distinct from their goals as practitioners. As with good brief writing and oral argumentation, a professor must judge success not by her technical delivery, but by her ability to resonate with the reader or listener.⁶⁴ As in oral argument, the professor must not just want to be heard, but must be open to questions. Professors must judge the reaction of their audience and make sure that they are, in fact, responding to the questions posed.

Also, like their students, new professors can benefit from receiving helpful feedback. Professors can encourage students to be open to receiving feedback by being receptive to it themselves. This feedback can enhance the overall communication between the professor and students, providing avenues to judging the students' needs, and encouraging a meaningful dialogue. Instead of trying to predict student needs, a professor can ask students if they feel prepared and have the information they need to complete a given task. When a professor tries a new way of conveying information, she should consider asking her students about its effectiveness. Students have given me some very good feedback in these informal critiques, both positive and negative. I accept the negative feedback, as I would expect my students to do, and use it to improve my teaching. For example, in advance of receiving a draft on a writing assignment, I asked one of the students about how things were going for her generally in my class; she indicated that she, as well as some other students, were having some difficulty synthesizing their cases (a topic that I felt I had well covered). While she understood the cases she wanted to discuss and why they were relevant, she was struggling with relating the cases to one another and identifying a common rule. I raised this issue

63. See Feeley, *supra* note 40, at 218 ("Attention to your audience and adjusting teaching techniques to that audience can be an important part of the mentoring process." (citing Tracy L. McGaugh, *Generation X in Law School: The Dying of the Light or the Dawn of a New Day?*, 9 J. LEGAL WRITING INST. 119 (2003) ("All good legal writing teachers extol to their students the virtues of considering the writer's audience However, when it comes to considering *our* audience—our students—we tend to teach them as we believe they *should* be rather than as they really are."); Anne Enquist, *Critiquing Law Students' Writing: What the Students Say is Effective*, 2 J. LEGAL WRITING INST. 145, 145-46 (1996) (asserting that in the same manner that the legal writing teacher instructs students to pay attention to their audience when they write, legal writing teachers need to provide feedback to students in a manner that is most useful to them)).

64. Feeley, *supra* note 40, at 218 ("Student's ability to take in information differs and one role of a good teacher is to maximize a student's ability to digest information.").

with the class, and other students agreed that they were having similar issues. I later tried a different angle to teaching case synthesis, using a simple example to demonstrate the synthesis process. Not only did the students make me aware of their earlier confusion, they were quick to tell me that my subsequent approach was much more effective, and they had a better understanding.

We can discover our gaps in instruction by creating comfortable opportunities for students to display their knowledge and ask questions. Collaborative exercises where students work together in small groups on a common task can help us determine whether students are learning and prompt students to ask questions. Professors may have students do preliminary work and then allow them to confer with their peers; this encourages students to become more engaged in an assignment and to actively seek the information they need.⁶⁵ While students may not want to ask a question that they assume all their peers know the answer to, they are often more comfortable doing so when they learn that other students have the same question.

Having students work with other novices can also help us to identify and work to close instructional gaps. Upper class students acting as teaching assistants can not only work with students to improve their writing,⁶⁶ they can help the professor to connect with the students and determine their needs. Teaching assistants are much closer to the perspective of new law students, and they are also peers with whom students are often simply more comfortable sharing their challenges and pointing out what they feel they do understand. When teaching assistants work cooperatively with the professor, they can often provide helpful insight into what students are and are not learning.

V. EXPLOITING OPPORTUNITIES TO "TEACH IN THE GAP"

Once experienced practitioners recognize the gap between what their students know about the legal profession and what they know as experienced practitioners, they discover a wonderful opportunity. Consider all of the knowledge and professional experiences that these professors bring to the law school classroom.

65. Levit & Linder, *supra* note 22, at 363 ("[N]umerous studies demonstrate the benefits of cooperative learning—that it fosters engagement, depth, and critical thinking . . .").

66. Becker & Croskery-Roberts, *supra* note 10, at 276-77. Becker and Croskery-Roberts opine that the teaching assistant's "limited mastery of the subjects they are called upon to teach may in fact allow them to transmit information more effectively to first-year students." *Id.*

These experiences can add a breadth and depth to classroom teaching that students will get excited about.

The experienced practitioner can use her course to teach students a great deal about the practice of law. If good critical thinking and writing is indeed "a consequence of experience gathered by working with others more experienced in [a] particular discourse community,"⁶⁷ the professor's aim should be broader than teaching students the legal skills that they are expected to master for the course. By sharing personal experiences, and creating new experiences for students, the expert can help novice students gain their own expertise and competence as future legal professionals. Moreover, the experienced practitioner can give many law students their first meaningful glimpse of what it means to be an attorney and to practice law.⁶⁸

Accordingly, the experienced practitioner must rethink how she plans her classroom discussion. Rather than just having students write an appellate brief, she can have students represent a client in a case in which they are preparing to file an appeal.⁶⁹ While the experienced practitioner is accustomed to the role of the client and the responsibilities of an attorney representing a client, the client is an abstract concept whose significance is often underestimated by most students. The experienced practitioner can talk about the role of the client in the case and the client's impact on the attorney's decision-making, or the considerations that arise where the client will be the recipient (or a potential reader) of the attorney's written work product. She can discuss the need in practice to be mindful of time allotted to various tasks for the client's case and how this may affect the manner in which a work assignment is handled. Even more, the professor can raise the profile of the client in the students' assignments. The professor can invite someone to play the role of the client and stage a meeting before the class.

Further, instead of just telling the students to consider their audience and purpose, the professor can bring to life who the legal

67. Williams, *supra* note 3, at 9.

68. Levit and Lender, *supra* note 22, at 372 ("We honor our students' choice of law as a career by offering courses, and content within courses, that show lawyers as justice seekers, justice givers, and problem solvers . . . Take students back to the aspirations in the personal statements they wrote for law school.").

69. Rodriguez, *supra* note 9, at 214 ("Students who develop the most expertise when writing in a new genre do two things. First they 'initially accept their status as novices;' second, they must 'see in [their] writing a larger purpose than fulfilling an assignment.'" (quoting Sommers & Saltz, *supra* note 21, at 124)).

reader is and how various documents are used in practice. The experienced practitioner can discuss how an office memorandum she wrote in practice was handled by a partner, or tell students how language included in a brief she wrote found its way into a court decision. Even better, the professor can invite a panel of practitioners to talk to her students about the role of writing in practice and the importance of meeting the partner's expectations on a given assignment. The professor can ask a law partner to tell students directly how they use more junior associates' office memoranda and court document drafts in their work.

Better yet, have students take part in their own legal experience. Before students participate in a moot oral argument, a professor can take the students to a court to witness an argument. While I know this is not always possible, it is an option worth considering. My class participated in this activity for the first time last year. I anticipated that the trip would provide an opportunity for students to go inside a courthouse and see an appeal being argued. However, the students got much more out of the experience. After seeing a "real lawyer" argue before a real court, they put more value in their own oral argument experience. The students gained confidence from seeing that the "real lawyer" was not so different from them. We talked about the arguments that were made, and the ones that could have been made. We discussed the attorney's rapport with the court and the judge's satisfaction (or dissatisfaction) with the litigant's answers. The students' level of engagement was remarkable. Many told me that the field trip was "the best experience" they had thus far in law school. Several said they felt afterward that they "could do this." I was amazed by how important the experience was for my students, and how inspiring it was for me as a professor.

Most importantly, the experienced practitioner can tell her "story" to her students.⁷⁰ The experienced practitioner should tell her students about the professional dilemmas she has faced in practice and the hard choices she has made. She should, of course, connect her experiences, her "war stories," to what the students are learning in class.⁷¹ The experienced practitioner can also

70. Martin & Rand, *supra* note 36, at 229-30 (discussing the importance of hopeful stories, including "war stories," as a form of encouragement).

71. Julie A. Oseid, *It Happened to Me: Sharing Personal Value Dilemmas To Teach Professionalism and Ethics*, 12 J. LEGAL WRITING INST. 105, 113 (2006) (discussing a teaching method in which a legal writing professor shares her own struggles with "value dilemmas"—i.e., life situations that activate one's conscience and require one to choose one action over another.). In teaching persuasive writing, the author, for example, often tells students

share with students how she got from where they are to where she is. Students will gain comfort in being reminded that their professor wasn't always an attorney, and that at some point she was in their shoes. While many students enter law school without a clear idea of the specific type of law they want to practice, they soon become concerned with what they will do with their law degrees. Having an experienced practitioner talk to students about the choices she made in her career, and why she made them, provides a unique opportunity for students. Moreover, students may begin to tell their professor about their own goals and elicit the professor's thoughts on their developing career plans. Engaging with students on this level allows many experienced practitioners to participate in exactly the type of dialogue that brought them to teaching.

VI. CONCLUSION

The experienced practitioner/professor brings a great deal of knowledge to the classroom. This knowledge provides her with an opportunity to be creative and really enjoy teaching. As most law students have a limited understanding of what it really means to practice law, and they clearly have an interest in learning more, the experienced practitioner has much to teach that students can get excited about. While vast experience, taken for granted, may in some respects impede the expert's ability to transmit knowledge to students, these challenges can be overcome by increased awareness of who experienced practitioners are as experts and who their students are as novices. By taking stock of what they know and carefully considering what experiences they want to bring into the classroom, experienced practitioners can incorporate the best aspects of practice into law school teaching. By gaining a better understanding of what students know about the legal profession when they enter the classroom, experienced practitioners can engage students at an appropriate level that will help

about the time that an opponent filed a brief that omitted the line of cases that seemed most relevant to his argument. In our discussion, I might remind students of the ethical and professional rules that lawyers are to abide by as well as other moral considerations. The class may discuss the issue raised by the omission. I explain how I dealt with the situation and how I made the decision whether to include these cases in my opposition brief. The class can discuss whether they too struggled with making choices of what to include in writing their own briefs. Did they go back and forth as to whether to include negative authority or "bad" facts?

students to develop their own expertise, competence, and, ultimately, confidence.